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MR. CHAIRMAN :—“ The question is—

‘ That the Madras General Sales Tax and the Madras Tobacco (Taxation of Sales and Registration) (Amendment) Bill, 1955 (L.A. Bill No. 9 of 1955), as passed by the Assembly, be passed.’ ”

The motion was carried and the Bill was passed.

(2) THE MADRAS CITY CIVIL COURT (AMENDMENT) BILL, ^a 1955
(L.A. BILL NO. 7 OF 1955).

THE HON. SRI C. SUBRAMANIAM :—“ Sir, I move—

‘ That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be taken into consideration.’ ”

This is a simple measure dealing with the jurisdiction of the City Civil Court. Hon. Members are aware that as far as Madras City is concerned, we had a system of courts existing here different from the mufassal courts. The original jurisdiction was being exercised and is being exercised in the City by the High Court and by the establishment of the City Civil Court. Original suits up to the value of Rs. 2,500 were dealt with by the City Civil Court and later on its jurisdiction was increased to Rs. 10,000. Now we are increasing the pecuniary jurisdiction of the City Civil Court to Rs. 50,000. There has been an agitation that the Original Side of the High Court should be abolished in its entirety and the system of judiciary in the City should also be brought in line with that which is in existence in the mufassal. But, taking into consideration the historical aspect and also taking into consideration the various representations made by the Advocates' Associations and other bodies and also after consultation with the High Court, we decided to bring forward this measure which would not abolish the Original Side of the High Court, but at the same time would relieve the congestion in the High Court to a very great extent. Sir, the figure, Rs. 50,000, has been accepted by the High Court also. Therefore, I hope hon. Members of this House will agree to the passing of this Bill without pressing for amendments to reduce the amount or for any other purpose. With reference to technical amendments, if there were any, I shall certainly explain the position, if necessary, when those amendments are moved.”

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MR. CHAIRMAN :—“ Motion moved—

‘ That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be taken into consideration.’ ”

SRI K. BALASUBRAMANYA AYYAR :—“ Mr. Chairman, I appreciate the Hon. the Finance Minister's expressing the hope that there will not be much opposition to the Bill that he has presently moved. But, unfortunately, the party that will be mainly affected, among the other parties, will be the Advocates. The Madras Advocates' Association is not in favour of this change. It

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has made representations to the Hon. Minister and has also sent in a memorandum on this matter. While considering this Bill, I would request the Hon. Minister to take into account a very important aspect, viz., that the nature of litigation in Madras City is different in some respects from the nature of litigation in the mufassal. In the City there are many contracts, foreign contracts, and disputes relating thereto in respect of a number of commercial firms which require speedy trial in the way in which it is done in the Original Side of the High Court. For this purpose, it is better to have a Judge of the High Court and this has been done for a long time. Before we are asked to accept a Bill like this, it must first be explained why there should be a change. The reason for the change should be stated. (Interruption.) I do not know why there should be a change at all. We do not know whether this measure has been brought forward only for the purpose of relieving the congestion in the High Court especially on the Original Side. The Original Side has not been abolished and there is also no such move at present to do it. Therefore I do not see any reason why this Bill should be introduced. Is there any reduction in the expenditure? I do not expect any reduction in the expenditure. Even in the case of the City Civil Court, we have the Principal Judge, Additional Judges and Assistant Judges. The expenditure incurred on these Judges put together will be much greater than that incurred on a Judge of the Original Side of the High Court. The chief point is that the procedure followed by the Original Side is much more adaptable for purposes of determining the various kinds of suits, like matrimonial causes and commercial causes. Madras is the capital City. In this connection, I may incidentally point out that in some other Bill, not in this Bill which is under consideration, the term 'Presidency town' has been used. It is an anomaly. Hereafter, we are not to use that term. We are to use the expression, 'capital City'. Anyway, this may be looked into in respect of the other Bill. Now, coming to the point, Madras being the capital City, the number of commercial causes coming up will be much greater than in the mufassal. These are governed by the principles of English Law in respect of various matters. So far as litigation concerning commercial enterprises in the City are concerned, during and after the last War, so many contracts, I mean a number of foreign contracts also, had to be judged and decided by applying the principles of English Law. Therefore, I submit that the Government are taking away a very valuable privilege enjoyed by the clients in the City. Hitherto, they were enjoying the privilege of having their cases tried by a Judge of the High Court. Why should the Government deny them this privilege? All along there has been this practice. If this practice had not been in existence and if nobody knew of it till now, it is all right. But, in view of the fact that the clients have been enjoying this privilege till now and also in view of the fact that there are various other factors to be taken into account, viz., foreign contracts and things like that which come up before the Courts in this capital City, I think that it is not necessary that the jurisdiction of the Original Side of the High Court, to the extent

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mentioned in this Bill, should be abolished. I also think that it is not necessary that the clients should be deprived of the valuable right which they have been enjoying till now, viz., having their cases adjudicated upon by a Judge of the highest Court in the State. With regard to some of the provisions contained in the Bill, I have got certain objections which I will enumerate later. For the present, I only wish to point out that the procedure adopted in the Original Side of the High Court is more suited for generally determining a large number of cases that come up here for adjudication in the capital City. That is why, I state that this valuable right should not be interfered with at the present juncture."

* SRI K. BHASHYAM :—" Mr. Chairman, this is one of these measures which affect a number of people in the City. The justification for such a measure is not stated in the Statement of Objects and Reasons. Of course, it has been stated that there is a different system prevailing in the mufassal from the one prevailing in the City and that there must be a uniform system in the mufassal and also in the premier City of Madras. How far this argument is good has to be examined. I want to say in the first instance that the growth of the Original Side of the High Court has got a historical background. It has been there for quite a long time. It is as old as the East India Company itself. The nature of cases that are dealt with by the Original Side of the High Court in the City of Madras is quite different from the nature of cases that are dealt with in the mufassal Courts. This fact has to be taken into consideration. My submission is that there must always be some distinction between the premier City of Madras and the mufassal stations. Why should there be a Corporation in the City of Madras and only a Municipality in the mufassal? Why should the Government grant large sums of money to the Corporation in the City and why are they even stinting in the matter of making grants to the municipalities in the mufassal? The Corporation here is spending lakhs of rupees. The same cannot be said in the case of the Municipalities. Why should there be a Secretariat in the City of Madras alone? Why cannot the Government spread it all over the State? Again, why should the Governor be in Madras only? Why not he spend some time in Tanjore and some time in Tiruchirappalli and some time in some other place? So, there is no question of requiring uniformity in such matters between the City and the mufassal stations. As a matter of fact, there is some difference in procedure with regard to the cases that come up before the Courts in the City and the cases that come up before the Courts in the mufassal. It is not as if there is no difference between the City and the mufassal stations in respect of this matter. The population of the City is about 12 or 15 lakhs. As was pointed out by another hon. Member, the nature of litigation that comes up in the City is absolutely different from the nature of litigation in the mufassal. Litigation in the mufassal will, in a large number of cases, be in respect of agricultural lands. But in the City, there

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are varieties of cases. Here sale deeds, conveyances, etc., are carefully drafted. We have also solicitors whose services are utilized for this purpose. By a careful drafting of these deeds by the lawyers here, lot of trouble in Court is avoided. Unnecessary litigation is also eliminated. In the City, there is much of litigation in respect of right to house properties and contracts. They are contracts relating to sale of goods, relating to the importing of goods or exporting of goods because after all this is a mercantile city; it is a port which brings in lot of traffic from outside not only from other parts of this country but also from other parts outside this country. Cases therefore deal with contracts entered into by persons not only with persons living within this city or within this country but also with persons living outside this country altogether. The nature of the litigation obtaining in the city courts is absolutely different from those obtaining in the mufassal courts. Mortgage suits are very few here and there is the right of sale to the mortgagee and that is taken advantage of. Hon. Members would have found a number of advertisements of sale of mortgaged properties. The mortgagee sells the property even without the help of the courts, as there is no question of dispute of titles. Therefore to say that there should be uniformity of procedure in respect of all matters between the mufassal courts and the city courts is something which is not quite correct and cannot be expected.

“ Apart from this there is another point which I would like the Government to consider. In respect of litigation, there is a sort of tradition in respect of this matter here. There are Solicitors trained in English law and procedure. A brief statement of the case is prepared and the Judges and others are in possession of the facts of the case without much difficulty. The Hon. Minister Sri C. Subramaniam is a mufassal lawyer. If only he had been practising on the Original Side in the High Court, he would have known it. I may tell him what is happening here. The rules here provide that there must be a list of documents at the time; otherwise the party is not allowed to put in these documents. That is the penalty imposed on the party for not filing the documents at the time. In the mufassal, this procedure is not taken advantage of. In the city, the Master looks into these matters before the case is put up before the Judge. So far as the preparation of the cases is concerned, the documents are bundled and both sides agree to this. In fact it is called ‘ the agreed bundle ’. All these cases are mostly contracts. It is only a question of construction of the contracts. All the correspondence is therefore bundled up according to dates and the ‘ agreed bundle ’ is given to the Judge. Therefore so far as preparation of the case is concerned, it is a perfect system that is adopted here. Then, the Judges dealing with those cases are High Court Judges. So far as English practice is concerned, all litigations go before the Judges at Westminster. Sometimes they go in circuit no doubt. But the other cases are all decided by High Court Judges themselves, sometimes sitting in London and sometimes in circuit. The system followed here is very much like the English

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practice. This really adds to the efficiency of the administration and the satisfactory nature of the disposal of the cases. In this connection, Sir, I may say the persons really affected are not the lawyers practising on the Original Side of the High Court? In fact I am not practising on the Original Side of the High Court. If therefore, I say anything, it is not for the purpose of furthering my interest or the interests of those advocates practising on the original side. It is for the benefit of the very large number of litigants in the City of Madras, who are mostly merchants and who are affected by this legislation. Were these merchants consulted? Were the Chambers of Commerce who are interested in this measure, consulted? In fact I was told that one of the Chambers of commerce had not even seen this Bill because it was not sent to them for opinion. They have protested against it. It has however, been stated that the High Court had agreed to this measure.

“ So far as the question of uniformity is concerned, I want to make one more submission. This is not a new thing that the Government are attempting to do. Even as early as 1870, this seems to have been mooted. Let me quote what Sir Phillip Hudson, the then Executive Councillor, had stated even as early as 1870. He said ‘ Whether we have regard to efficiency of the Judges themselves, the maintenance of a good Bar, the impartial Administration of Justice for the protection of the people at large or any other of the objects which a good Executive Government must always keep in view, I am very decidedly of opinion that the substantial maintenance of the Original Side of the High Court is a matter of supreme importance ’. This was said as early as 1870. This has been found true even to-day. But the Hon. Minister might say : ‘ We want uniformity ’. I may tell him again that he has had no experience on the Original Side. Most of the advocates coming from the mufassal do not know what is happening here.

“ My submission further is, let the matter be referred to the Chambers of Commerce and the Government would find that they are satisfied with the preparation of the cases here in the City Courts. These merchants have also got cases in mufassal courts. They have experience of how it is done there and how it is done here in the City. They may well be asked on this matter. It is not as if, I repeat, I am arguing the case of the lawyers practising on the Original Side of the High Court. If as a result of this measure they don't get briefs on the Original Side, they can get the same cases in the City Civil Court and make the same money. But my respectful submission is that we should not be led away by the fact that there must be uniformity as between the mufassal courts and the City courts. A serious step is being taken by Government. As I have already mentioned the administration of justice in the City is much more efficient than in the mufassal. This will be evident if you look at the comparative percentage of appeals going from the Original Side, and those coming from the mufassal. You will find the percentage is very little in respect of

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appeals going from the Original Side of the High Court. It is because the Original Side judgments are very satisfactory. People are satisfied and do not take the matter in appeal. If you say the appeals from the mufassal courts is 5 or 10 per cent, it will be half per cent or even less in respect of cases from the Original Side of the High Court. Appeals on cases decided by the Original Side are very very few and appeals to the Supreme Court is practically nil. This only speaks of the efficiency of the administration of justice.

"I want to make another submission, Sir. Persons affected by this legislation are mostly litigants of the city, especially the merchants. Representatives of the various Chambers of Commerce ought to have been consulted before this legislation was undertaken by the Government. Government have stated in the Statement of Objects and Reasons that this Bill has been brought forward with a view to bring in uniformity of procedure in respect of the City and mufassal courts. It is not as if there is no uniformity now between the mufassal and city courts. In fact uniformity obtains even now. It is not as if the city litigant gets his litigation decided at a low cost. The Court Fees Act has been extended to the High Court also, that is to say, the city litigant pays as much to get a decision as a mufassal litigant does. Therefore it is not as if the city litigant has an advantage over the mufassal litigant. On the other hand the city litigant suffers under one disadvantage in that for every application he makes to the High Court, for the purpose of getting anything done, he pays Rs. 5 or even Rs. 10 for what you call 'notice of motion' or even 'chamber application', while the mufassal litigant can get such a thing done by paying eight annas or twelve annas. In addition to this, the city litigant pays for every day a sitting fee of Rs. 25. Though this is somewhat costly, the city litigant does not mind it because he gets efficient administration of justice. He need not go in appeal and spend on all other things.

"Therefore, Sir, my only submission is this. If there is efficiency in the administration of justice, why pull it down on a level with the mufassal courts? It is not good to do so. If the administration of justice in the mufassal is not so good as that in the city why not tone it up? How to do it is the question. Sir, if the Hon. Minister and others sit together in conference, we can consider how this could be done. We can, if necessary, improve the rules obtaining in mufassal courts. The procedure adopted on the Original Side of the High Court has been in force for a number of years. The same procedure may be used for mufassal courts also. (Interruption.) Every man invokes God for his own purposes, for his own success. People do it and there is no doubt about it. I do the same thing. But let us not quarrel over these small things, or invoke God at the present moment. Let us not disturb Him over this small matter. I only ask, why not tone up the administration in the mufassal and bring it up to the level of the City Courts?

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“ Then I wish to refer to another matter. There are a number of persons being trained as lawyers. There are apprentices who are really attending the Original Side of the High Court and they get a better atmosphere in which to learn their business. They really imbibe the etiquette of the Bar in the High Court better than in the mufassal courts. Therefore, under these circumstances I think, a case can better be made out for the abolition of the City Civil Court itself or at least cutting down its jurisdiction. 4-10 p.m.

“ Sir, it has been stated that the idea behind this Bill is to speed up the disposal of cases. I am told—of course it is a non-official information—that nearly 3,000 cases are pending now in the City Civil Court. Originally there was one Judge and now there are three Judges and a fourth Judge has also been appointed recently. Now if in addition to 3,000 cases already pending, another 1,000 cases are transferred to the City Civil Court after this Bill is passed, there will be further delay. As a matter of fact, two more Judges will have to be appointed to dispose of these cases. Of course, the Principal Judge will be of the rank of a District Judge. But sub-judges will come from mufassal courts. They do not have sufficient knowledge of the procedures and rules and how the ‘rigour’ of these rules should be enforced against litigants. They must be up to the mark and they must not lag behind. If, as a result of this measure, 70 per cent of the cases are transferred to the City Civil Court, I do not know how there will be more speedy disposal of cases. That apart, there is also another question involved in the matter. How are we going to get accommodation for six or seven Judges. Now, as it is, several courts function in one building. Some rooms give an appearance of hovels and they are dark. In these hot days it is impossible to hold the sitting of the court in a dark room without proper ventilation. Sir, if these courts are located in a certain specific place, it will be convenient to lawyers, it will be convenient to the litigant public and it will also be convenient to Judges. After all, the atmosphere in which these courts are situated should be congenial and every convenience should be provided and then only it will be convenient to dispose of cases. If a judge has not got a properly ventilated room, his feelings of disgust and discomfort are felt in his decisions. The lawyers and the clientele are the poor victims of this feeling. Therefore, I would request the Hon. Minister for Law to look into the question of accommodation also and see that proper housing and proper facilities are provided for them.

“ Then I come to another matter. In the Bill it is proposed to extend the jurisdiction of the Madras City Civil Court to try cases of the value of Rs. 50,000. From 10,000 it has been raised to Rs. 50,000 which is a very big jump. Why not this be raised only to Rs. 20,000 or Rs. 25,000? As it is, the Government can, by notification, enhance the pecuniary jurisdiction of the Court to Rs. 20,000, see how it works and then go step by step in respect

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of this matter. Therefore, I feel that the raising of the jurisdiction from Rs. 10,000 to Rs. 50,000 is too high. I shall speak at length when the amendment, which I have given notice of, comes up for discussion.

" So far as appeals are concerned, there is also another difficulty. What is sought to be done, under this Bill, is this. We appoint the Principal Judge with the rank of a District Judge. I think, the District Judge will be appointed as the Principal Judge, and the Assistant Judges will come from mufassal courts. As it is, an appeal from the Assistant Judge would lie to the Principal Judge and he has to dispose of it himself or send it to other Assistant Judges. But I submit that difficulties will arise in respect of this matter. At the present moment, appeals lie to the High Court from the City Civil Court. Now if they are sent to the Principal Judge, there will be more delay and prolonged litigation and they will not be disposed of quickly. Therefore, it will be much better if the appeal should lie, as at present, direct to the High Court. Now what happens in the mufassal court? Suits involving a value of less than Rs. 3,000 are heard by the District Munsif and suits valued between Rs. 3,000 and Rs. 5,000 are to be heard by the District Judge. I do not know how unanimity in respect of this matter is kept up in this Bill. It is stated there that cases valued less than Rs. 5,000 can be tried by the Principal Judge on appeal. Sir, there is also one other serious difficulty involved in the matter. Power is given to the Principal Judge to transfer one case from one subordinate judge to another. I may tell the Government that it will be difficult to work it. Suppose a First-class Sub-Judge has been appointed and he decides a case and an appeal is preferred to the Principal Judge. There may be four or five Sub-Judges of a second grade. If the Principal Judge is to transfer that appeal to an ordinary sub-judge, the judge who is inferior and junior to the judge who first decided the case would hear it. Such things may happen. Perhaps instructions may be given to the Principal Judge not to do so but as a matter of fact such instructions cannot be given to him. As practical difficulties are involved in the matter, I hope the Hon. Minister will look into it.

" Now, I wish to refer to one other important matter. Sir, I can understand a measure being brought in for the purpose of governing the suits that would be handled hereafter. Now what is stated in the Bill is that as soon as it is passed, all the suits with a value of more than Rs. 5,000 pending disposal will stand transferred to the City Civil Court. That is why I have given notice of an amendment which gives exemption to suits in which issues have been framed or suits which are part-heard. I do not know how suits can be automatically transferred. First of all, they will have to be numbered and various processes have to be gone through. Further there will be delay in the disposal of cases."

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MR. CHAIRMAN :—" There are a number of Bills to be passed. So, let the Member finish his speech soon."

* SRI K. BHASHYAM :—" It is an important measure and I require more time. It is a matter affecting the administration of law and I have been commissioned by the Advocates' Association to impress upon the Government to drop the measure if possible or at least amend it suitably."

MR. CHAIRMAN :—" Let the hon. Member take five more minutes."

THE HON. SRI C. SUBRAMANIAM :—" The hon. Member, Sri Bhashyam, is attempting at the impossible."

* SRI K. BHASHYAM :—" If the Hon. Minister, Sri Subramaniam does not agree with what I have stated, perhaps he may be wiser than myself or I may be wiser than he."

THE HON. SRI C. SUBRAMANIAM :—" We are personally affected and we know the judgments are also affected." 4-20 p.m.

* SRI K. BHASHYAM :—" Sir, that is why I said I have no practice on the Original Side. There may be one or two cases. It may be that one of my friends has entrusted it to me or it may be that a person specifically wants that I should appear in the case. My practice is restricted to the appellate side."

DR. V. K. JOHN :—" Sir, is it in order to attribute motives to an hon. Member? "

THE HON. SRI C. SUBRAMANIAM :—" I never did that, Sir."

* SRI K. BHASHYAM :—" Sir, I don't expect the Hon. the Law Minister to say anything of the kind and I understand him all right. What I mean and what the Hon. Minister means is known to both of us. The question is how are the Advocates affected. Persons who are really engaged as lawyers will get the case either transferred or they will appear in the City Civil Court. After all, it is in this City itself. It is not in the mufassal. Therefore, to say that the Advocates will be affected is something which I cannot understand. We want efficient administration and speedy disposal of cases by a person eminently fitted to dispose of those cases. That is the anxiety on the part of the client. The Advocates will get their fees in any case, whether in the City Civil Court or in the High Court. Therefore, let us not attribute motives to the Advocates' Association. It is a cheap gibe to say that the lawyers will be affected. Therefore, I wish to point out that there is no advantage in any case, either in abolishing the Original Side altogether or raising the jurisdiction to such a high figure as Rs. 50,000. I oppose this measure altogether."

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* DR. V. K. JOHN :—“ Mr. Chairman, Sir, I have experience of practice on the Original Side of the High Court where most of my practice is. I have also got practice in the City Civil Court and the District Court and I think I can speak with some authority and experience on this matter. The move now is to approximate one system to the other, the mufassal system to the City system. It is one of the fundamental responsibilities of a civilized State to provide a machinery for the administration of justice—a machinery which will be speedy, cheap, efficient and impartial. When courts of justice were introduced in this country by the British, they wanted to follow the principle obtaining in Britain. In England suits are tried by the High Court Judges. Even to-day you can file a suit in the High Court of England for any amount, even for 1 sh. or 1 d. Costs are in the discretion of the Court. Although there are County Courts, it is possible for any client to choose the High Court. On account of lack of communications and other factors, the Britishers thought that the system prevalent in England could not be introduced in the mufassal. They introduced the British system in three important commercial centres, Bombay, Calcutta and Madras. They introduced another system for the districts by constituting District Judges, Subordinate Judges and District Munsifs in the mufassal. Now, first of all, the question is which is the more efficient one. We have to take into account the efficiency, the cost, the speed with which things are done impartially and the confidence of the litigant public and say which is the more efficient one.

“ Suppose a High Court Judge tries a matter. He has got a particular status. He is more well versed in law. He has got greater experience. There is a world of difference between a trial by a High Court Judge and a trial in the mufassal by a District or Subordinate Judge. This can be understood by a person who has got experience of both. A litigant is satisfied with the judgment of a High Court. If you look into the statistics, you will find that there are very few appeals from the Original Side of the High Court to the Appellate Side of the High Court because people are satisfied that a learned Judge, a person of a very high status and of indisputable impartiality, has adjudicated the case. (The Hon. Sri C. Subramaniam : ‘ Sir, is it right on the part of the hon. Member to say that the Judges in the mufassal are not so impartial? ’) I am not imputing motives to anybody, but I am only talking about the confidence of the litigant public. If I were a litigant, I would be more satisfied with the decision given by a High Court Judge than a District Judge or a Subordinate Judge or a District Munsif. A litigant would like his case to be tried by the highest Judge if he can get it. There is no question of bringing discredit to anybody. But it must be admitted that there will be greater efficiency and it will inspire the confidence of the litigant public if a High Court Judge were to try the suits. In my opinion, we should extend the High Court system of trial to big towns like Madurai where there are easy means of communication. There should be circuit Judges. In Britain also there is

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the question of distance, but there the Judges go in circuit. This will have a very good effect upon the litigant public, the lawyers and the Judges there. Suppose a High Court Judge sits and tries cases at Coimbatore for two months. That will create a better atmosphere in the administration of justice. If the Government want to approximate one system to another, they should have gone in the opposite direction, by following the British practice of having circuit Judges going to and sitting in mufassal centres. If that could be done, we would be raising administration of justice to a higher level than to-day. Instead of that, the Government are destroying that one efficient system of administration of justice which we are having for a long time.

"Now let me dwell upon the procedure that is followed in the High Court. The Hon. Minister Sri C. Subramaniam may be familiar with the procedure obtaining on the Original Side of the High Court. The procedure adopted for the trial of cases is a quick one. In the District Court, the Judge has to write down the deposition of the witness himself whereas in the High Court a shorthand-writer takes down the questions and answers. The High Court Judge listens to and understands the case and makes notes for himself. It will perhaps take four or five days for a District Judge to do what the High Court Judge does in one day. Then, in the High Court all the documents are typed and they are read so that the trial of the case is over in a day or two. It would probably take a week or so in a District Court or Sub-Court. Further, judgment is delivered without much delay. Everything is fresh in the mind of the Judge and the case is not adjourned if it is part-heard. Sir, the present system which is followed in the High Court is a very efficient system and is conducive to speedy disposal of cases. Instead of adopting this system in the districts also, the Government are abolishing the system now followed in the High Court itself, and are trying to bring the mufassal system into the City. I say, Sir, that this is a wrong thing to do.

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"What do we gain by adopting the system suggested by the Government? Is it cheaper? Certainly not. We will have to appoint more senior judges. I challenge the Government to give me figures to show how the system suggested by the Government is cheaper. Again, Sir, there will be delay in the disposal of suits by the City Civil Court. Almost every case disposed of by the City Civil Court will go in appeal to the High Court and consequently there will be lot of delay. But as, under the present system a majority of cases are decided by the Original Side of the High Court, they are not taken on second appeal at all. But if this Bill were to be passed into law, 90 per cent of the cases disposed of by the City Civil Court would in appeal to the High Court. Naturally this will require the strength of the High Court to be increased. The Government will not save anything as a

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result of passing this measure. The system will not be cheaper at all. The system will be much worse because a person who decides a case in the City Civil Court will not have the same reputation as a High Court Judge. Therefore, Sir, from the point of view of cheapness, from the point of view of speedy disposal of cases, from the point of view efficiency and from the point of view of confidence of the litigant public, the system which we are now following is a better one. The system which we are now following is the one adopted in Great Britain also. It is wrong, Sir, to adopt the mufassal system in the City. On the other hand if the present system which is adopted in the City is extended to mufassal areas also and if High Court Judges go on circuit to mufassal areas, there would be greater direction and guidance given to the District and Subordinate Judges.

“ I wish to refer to one or two clauses in this Bill. I find from the provisions of clause 8 how thoughtlessly this Bill has been drafted by the Government. Clause 8 contains transitory provisions. It says that—

‘All suits pending in the High Court on the date of the commencement of this Act and which would be within the cognizance of the Madras City Civil Court under the provisions of this Act shall stand transferred to the Madras City Civil Court.’

Sub-clause (2) of Clause 1 says that this measure will come into force on such date as the State Government may, by notification in the *Fort St. George Gazette* appoint. Suppose, Sir, the Government notify in the *Fort St. George Gazette* that this Act will come into force on the 1st of August this year. As per the provisions contained in clause 8 of this measure, all suits pending in the High Court on that date and which would be within the cognizance of the Madras City Civil Court shall stand transferred to the Madras City Civil Court. Even if in a case judgment has been reserved by the High Court, that case also, according to the provisions of clause 8, will have to be transferred to the City Civil Court. There may be part-heard cases on the 1st of August. There may be cases where a preliminary decree has been passed and final decree is awaited. But, under the provisions of clause 8, all these cases also will have to be transferred to the City Civil Court. I do not know whether the draftsmen of this Bill have ever considered the effects of this clause. In fact, Sir, when the Andhra Act was passed, a rule was made that those cases which were in the list prepared by the Chief Justice would alone be transferred to the Andhra High Court. That is a reasonable provision. All cases where the cause of action arose in the Andhra area were not transferred to the Andhra High Court and some of the cases were disposed of in the Madras High Court itself. I ask the Hon. the Minister in charge of this Bill to consider the effect of the provisions contained in this clause. According to the provisions contained in Section 24 of the Civil Procedure Code, the High Court can *suo motu* transfer any case from one court to another or from itself to another. Even without this clause 8, the High Court would transfer such of those

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cases which ought to be transferred to the City Civil Court, and they themselves would decide in cases where judgment is reserved or where a preliminary decree is given, etc. We need not have this clause 8 at all. In fact, when the Madras City Civil Court Act was previously amended enhancing its pecuniary jurisdiction from Rs. 2,500 to Rs. 10,000 no provision similar to clause 8 in this Bill was introduced in the amending Act. The Hon. Minister who is himself a lawyer will, I hope, consider the effect of the provisions in this clause, and see whether something cannot be done so that justice may be done to all people. I hope, he will look into this matter.

“ I also wish to refer to another point with regard to provisions made for ‘ Appeals ’ in clause 6 of the Bill. I remember to have read a Privy Council decision in an Australian case that ‘ appeals are not a matter of procedure and that they are substantive rights. ’ When a man files a suit in a particular court, he immediately gets a right of appeal to a court which has the jurisdiction to entertain an appeal at the time he files a suit. The provisions in this clause 6 have not been clearly worded. The right of appeal is not a matter of procedure. It is a fundamental right. I do not think that the wording in clause 6 is so clear as to convert that right into a substantive right. I would like the Hon. Minister to investigate into this matter.

“ Sir, up till this day, I was under the impression and I thought that my information was correct that the High Court recommended only enhancement of the pecuniary jurisdiction of the City Civil Court up to Rs. 20,000. But the Hon. Minister told us that the recommendation of the High Court was for the enhancement of the pecuniary jurisdiction up to Rs. 50,000. But so many people, men in authority from whom I can get correct information told me that it was Rs. 20,000 that the High Court recommended. It is for the High Court to make suggestions with regard to the question of increasing the pecuniary jurisdiction of the various Courts and it is for the Government to accept it. I was under the impression that the High Court recommended only Rs. 20,000, and anyhow I take the statement of the Hon. Minister that the High Court recommended Rs. 50,000.

“ Before I close, I would like to make one more request. There is one great advantage for District Judges being posted as Principal Judge or as Additional Judges of the City Civil Court. It is not without some advantage. Leading lawyers in the Madras High Court will be appearing before them. I suggest to the Government to see that almost every District Judge gets a chance to become the Principal Judge or Additional Judge in the City Civil Court because he will go from here to the mufassal with some better idea as to how a case should be tried. The Civil Procedure Code practice is different. We might insist on the High

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Court practice being followed as far as that can be accepted. High Court practice is very much better. I think it will be a good lesson for District Judges to be posted to Madras because being the metropolis there are more senior and eminent lawyers practising in the High Court.

“ Another thing I would ask the Hon. Minister is not to increase the jurisdiction of the City Civil Court to Rs. 50,000 all on a sudden. Under Clause 2 the words ‘ ten thousand rupees ’ are substituted by the words ‘ fifty thousand rupees ’. When we read Section 3 of the original Act, we will find ‘ such value not exceeding Rs. 10,000 ’. When we start, we can say Rs. 15,000 and later on Rs. 20,000 after a year when we have got the accommodation and after seeing how it works. Then, gradually we can increase it to Rs. 25,000, Rs. 30,000 and then to Rs. 50,000. You cannot abolish the Original Side of the High Court. But after all this is an indirect way of abolishing the Original Side. I would suggest to the Hon. Minister not to have Rs. 50,000 limit immediately, but to go slowly. He may now increase it to Rs. 15,000 or Rs. 20,000 and one year later it may be more. When Rs. 10,000 limit was fixed the Government were also eager about the Court-fees. But recently they made the Court-fees the same in the High Court as in the other courts. In London, there is no Court-fee at all and there is only a hearing fee. In Calcutta and Bombay there is no Court-fee in the Original Side of the High Court. In Madras we had Rs. 30 and later Rs. 225. Later we had the *ad valorem* Court-fee paid in the mufassal. Government are not losing any money by having the suits in the High Court. In fact Government will get more money as fee paid on applications in the High Court. I would, therefore, very seriously suggest to the Hon. Minister for Law to fix a lower limit and see how far it works, how far the litigant public have confidence and then slowly go up to Rs. 50,000. He need not go to the limit of Rs. 50,000 all on a sudden.

“ I would strongly urge upon him to consider the question of deleting Clause 8 which will work great havoc and lead to the High Court transferring all the cases. Some cases may be very important, very complicated involving very difficult questions of law. Those cases may be kept in the High Court and others may be transferred to the City Civil Court. Therefore, if Clause 8 is deleted, under Section 24 of the Civil Procedure Code, the High Court is not bound to transfer all the cases, but can transfer cases. I know that the High Court will transfer 99 per cent of the cases within the pecuniary jurisdiction of the City Civil Court. I would, therefore, request the Hon. Minister to delete Clause 8 and also not to go up to Rs. 50,000 quickly, but in stages.”

THE HON. SRI C. SUBRAMANIAM :—“ Mr. Chairman, Sir, we have listened with great attention to all the arguments advanced by hon. Members. A question was posed why there should be a

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change at all in the existing system and I was put on my defence as far as that was concerned. We have got two systems prevalent, one in the mufassal and the other in the City. What is the justification for this difference? Originally it might be that trade, business and commerce were concentrated in the City. Not only that, they were all concentrated in the hands mostly of foreigners. Therefore, they wanted a system with which they were familiar. There were English Barristers who had come over here and set up practice and their interests also had to be taken into consideration by the then Government which had the interests of those persons in their heart of hearts. Original Side developed here because of those historical reasons. But, Sir, may I ask hon. Members whether business, trade and commerce are concentrated only in the City of Madras? I may claim, coming from Coimbatore, that it is as important as Madras from the industrial, trade and commercial point of view. So also Calicut which is a port town. Madurai is important enough and Tiruchirappalli is also important enough. Under those circumstances, we cannot say that different circumstances prevail in the City of Madras which do not prevail in other towns. Commercial causes are not peculiar to the City alone. There are commercial causes in Coimbatore, Tiruchirappalli and Madurai, and as a matter of fact they are now being tried as commercial causes under the special procedure laid down for commercial causes. There is nothing new. Because of the development of the entire country, other towns have also become as important as the City of Madras, if not more important in certain respects. Therefore, to claim certain importance to the City of Madras alone and to claim Original Side as a privilege to be retained in the City of Madras, I am unable to understand.

“ Solicitors’ system has gone here after the departure of Barristers. I do not think Solicitors as such are existing now except a few firms like King and Patridge. Generally what prevails in other towns prevails here. Advocates are also here and they are not assisted by Solicitors in the conduct of their cases. That being so and now that conditions have changed, I do not see why we should have a different system altogether in the City of Madras.

“ Then, we have to find out whether the system in the mufassal has failed necessitating the introduction of the system which is prevalent in the City of Madras all these years. I can claim with a certain amount of intimate knowledge of the working of the judiciary in the mufassal towns—I would not say that they are on a par with High Court Judges, and after all we have to take into account the pay which a High Court Judge receives and the cadre from which High Court Judges are recruited and they are paid Rs. 3,000 even under the Constitution and before the Constitution Rs. 3,500 and Rs. 4,000 also—that the subordinate judiciary has played its part very well. As far as our judiciary are concerned—of course there are exceptions and exceptions can

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be stated even from the Madras High Court or from any other High Court, but they are exceptions—on the whole, they have acted impartially and they have maintained their integrity of which we can be proud. Therefore, by comparing let us not bring down the integrity or impartiality of the subordinate judiciary in the mufassal. On the other hand, they have maintained a very high standard of integrity and impartiality. That I can vouchsafe. That being so, if a Subordinate Judge in a mufassal Court can exercise unlimited jurisdiction, whether it is Rs. 5 lakhs, 10 lakhs or one crore and apart from the value of the suits however involved those suits might be, if he is competent enough to try those suits and deliver judgment, I do not see how he would become incompetent because he happens to sit in the City Civil Court here. With great respect to hon. Members who opposed this on the ground that efficiency would go down and who said that it would be better if the case was tried by the High Court Judges in the City, I have to say that I am unable to agree with them. After all, when a person becomes a Subordinate Judge, he would have acted as a District Munsif for a pretty long period, generally about ten years, and he would have had a good deal of experience whereas a High Court Judge may be recruited straight from among the practising lawyers. The latter may not have had any experience in judging matters even though he might have been a very successful lawyer. But a District Munsif, after a good deal of experience in judging matters, becomes a Subordinate Judge and then tries suits up to Rs. 3,000 in the mufassal. So, I do not see why such a Subordinate Judge who is competent enough and who is, as a matter of fact, trying all suits involving various matters, whatever may be the value of the suits, is not competent enough to try a cause which arises in the City of Madras, and considering the change in circumstances, I do not see any difference between the City of Madras and the other important mufassal towns.

“Then, it was put on a higher level that this was a valuable right of the clients which was being taken away now. These valuable rights are not natural rights. These are only statutory rights, procedural rights, granted in respect of certain matters. Certainly, it is for the Legislature as the supreme body to take note of the changing circumstances and to make changes in procedure in respect of the Courts. It should not be considered a fundamental right. Even a fundamental right is a creation of the Constitution. It cannot be considered a natural right which is enjoyed by only the citizens of Madras and not others. It is a statutory right which has been given to have certain suits instituted on the original side. It should be open to a body competent to make that statute to alter that statute also. So, I do not accept this theory of valuable right vested in the clients being taken away as if it is something which is inalienable and which cannot be changed at any time.

“Then, the hon. Member Sri Bhashyam also argued from the aspect that these had been functioning very well and very

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efficiently and that the lawyers also had become accustomed to the practice here and that they were more diligent than lawyers in the mufassal in the preparation of cases and in the filing of documents. I do agree, but it is not because of the lawyers here. It is because of the circumstances prevailing in the City. It is because the educated section of the people live in the City. They have the documents with them and whenever a dispute arises, they are able to produce all the documents relating to that. Even if other documents are necessary, they get copies of them. Therefore, the efficiency of the Courts is not due to the greater efficiency of the lawyers but to the situation prevailing here. The clients in the City are educated; they preserve documents and when a suit is filed, they place the documents in the possession of the lawyers. But in the mufassal there are clients who are not educated, who are backward and who do not adopt businesslike methods. Therefore, if we insist on the same standard in the mufassal, no case can be carried on. At a very late stage, the client brings to the notice of the lawyer a certain document which is very important and which has been made available to him just then. That cannot be brushed aside. That is because of the circumstances prevailing in an area. But even in the mufassal circumstances are changing and lawyers and clients are more diligent in filing their documents than before. So, that need not be an argument to say that mufassal lawyers are of an inferior grade and that there is a better grade of lawyers in the City, and so also that there should be better judges in the City and that the judges in the mufassal are of an inferior type. That argument does not appeal to me even though it might appeal to some hon. Members.

“The hon. Member Sri Bhashyam referred to the argument about accommodation. I do agree that accommodation is wanting. But I may inform the hon. Member that the High Court have taken notice of that and that they have addressed the Government that further buildings should be put up for locating the City Civil Court and other quasi-judicial bodies which are sitting in the various parts of the City so that it may be convenient for all the lawyers to attend the Courts whenever they like. That is under the consideration of the Government. I am hoping to take it up sometime later on when the building programme will be taken up so that all the Courts and other quasi-judicial tribunals which are functioning in the City may be located in one block. That is under the consideration of the Government and we may take steps very soon for that purpose.

“A reference was made with regard to appeal direct to the High Court against the judgments of the City Civil Court which is being taken away. This is also in accordance with the procedure prevailing in the mufassal. All appeals against the judgments of the Munsif's Courts and Subordinate Courts up to a value of Rs. 5,000 can be heard by a District Judge. But in respect of judgments passed by the Munsif's Courts, a Subordinate Judge

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also can hear the appeal. That is the position there. Therefore, up to a value of Rs. 5,000, an appeal does not go to the High Court, but it lies to the District Court or the Subordinate Court, whatever it might be. Here also we want to provide that up to a value of Rs. 5,000 there should be an appeal only to a Subordinate Court and not to the High Court direct. So, we have said that all suits below Rs. 5,000 jurisdiction shall be appealed against to the City Civil Court itself. That is why we are creating two sections in the City Civil Court—one, a Principal Judge and Additional Judges of the cadre of District Judge, and two, Assistant Judges who would be of the cadre of Subordinate Judges. As against a decision of the Assistant Judge, an appeal is provided for to the Additional Judge or to the Principal Judge. That is, the Principal Judge may transfer it to the Additional Judge. But the Principal Judge and the Additional Judge will naturally be of the cadre of District Judges. So, a judgment of the Assistant City Civil Court Judge, provided the value of the suit is confined to Rs. 5,000, can be appealed against to the Principal Judge. It can be heard by him or by the Additional Judge. In respect of suits of a value of more than Rs. 5,000, appeal to the High Court direct will lie. Suppose the Principal Judge or the Additional Judge himself tries a suit whose value is less than Rs. 5,000. In that case, as in the case of a trial of a suit by a District Judge as an original suit, the appeal has to go directly to the High Court. Therefore, the confusion pointed out by the hon. Member Sri Bhashyam is not likely to arise. There is no room for that."

DR. V. K. JOHN :—"What about the City Civil Court Judge who has no time except to hear appeals?"

THE HON. SRI C. SUBRAMANIAM :—"Just like a District Judge, when we invest these Judges with sessions powers also later on by bringing in a Bill, such a Judge will also be hearing merely sessions cases and one or two trial suits also. There would not be any difference between the District Judges and the Principal Judge of the City Civil Court when we transfer this power."

"A point was raised with reference to clause 8 that all suits or appeals would stand transferred when that clause came into effect. But we are not giving immediate effect to it. We will give effect to it only after the expiry of the vacation so that suits may not be pending at half-stage. Even supposing it comes into effect, there are two methods of doing that. One method is to ask the High Court to transfer all suits which can be transferred."

5 p.m. "Another method is the High Court has got the power to withdraw any suit from any court to its own file. It can take into its own file all cases which are part-heard or which, it thinks, it should hear. So, it is only a matter of procedure. The High Court has preferred this provision to any other. We have been guided by the advice of the High Court in this matter."

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"Then, Sir, with reference to the question of raising the jurisdiction of the Court to 50,000 rupees, it was said that it should not have been done. Here again, we have consulted the High Court. After all, the High Court knows the entire state of affairs in the court, the nature of disputes in the suits and whether it is necessary for a High Court Judge to dispose of a particular suit on the Original Side. The High Court has advised us that as far as the City Civil Court is concerned, the jurisdiction should be raised to 50,000 rupees. Taking all these facts into consideration, I am afraid there is no justification for the stout opposition which has been put up by various hon. Members of this House. I know they are very good lawyers on the Original Side. I know Dr. John and others who have experience of the work done in the High Court. And it is not as if, Sir, we are bringing in this amendment here only. In Bombay and in Calcutta, they have already moved in this direction. The jurisdiction of similar courts there has been raised. I do not think we are taking any wrong step. I am convinced, we have taken a step in the right direction and I am sure the House will endorse it."

MR. CHAIRMAN :—"The question is—

'That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be taken into consideration.'"

The motion was carried and the Bill was taken into consideration.

Clause 2.

MR. CHAIRMAN :—"Motion moved—

'That clause 2 do stand part of the Bill.'"

* SRI K. BHASHYAM :—"Sir, I move the amendment standing in my name, viz.—

'For the words "*fifty thousand rupees*," substitute the words "*twenty-five thousand rupees*".'

SRI K. BALASUBRAMANYA AYYAR :—"Mr. Chairman. Sir, I move the amendment standing in my name, viz.,—

'For the words "*fifty thousand rupees*," substitute the words "*twenty thousand rupees*".'

The amendments were duly seconded.

SRI K. BHASHYAM :—"Sir, I want to remove a misconception that has crept in in the speech of the Hon. Member in charge of the Bill. It is not a case of opposition to the Bill on the ground that the subordinate judiciary is either not efficient or not impartial or is incompetent. I have never suggested it nor do I do it now. What I say is the procedure prescribed by the High

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Court in its Original Side is really calculated to ensure a speedy and efficient dispensation of justice. It is not so in the mofussil. As it is, the mofussil judges work at a disadvantage of bad system. I shall give an instance. Let us take the question of listed documents. After issues are allowed and as the court proceeds listed documents are filed and as the trial proceeds the court goes through these as a matter of course. In the mufassal, the lists are allowed to be added to from time to time. After the closure of evidence itself, some evidence was allowed. All these are irregularities in procedure. Such irregularities or relaxations are not really allowed in the Original Side at all. The Hon. the Minister need not give any credit to lawyers. But I do not want any credit. A lawyer in the mofussil is as good and competent as a lawyer in the metropolis. But the lawyer in the City conducts his case far more efficiently than the lawyer in the mufassal because the litigants in the mufassal are somewhat lax and are not as intelligent as City litigants. They do not keep documents."

MR. CHAIRMAN :—" Does the hon. Member speak on his amendment? "

* SRI K. BHASHYAM :—" Sir, I want this point to be thrashed out completely. I am really trying to convince persons who are not Members of the Council and the large number of litigants about my stand so that they may be able to judge whether my case is right or the case of the Government is right. If you think, Sir, this thing can be hurried about like this, then I am entirely in your hands."

MR. CHAIRMAN :—" I am not hurrying. The hon. Member will kindly speak on the amendment."

* SRI K. BHASHYAM :—" I am trying to place these facts before the House, not because I have no good opinion about the integrity, capacity or impartiality of the men in the mofussil, but because of difference in procedure. So far as the mufassal courts are concerned, the litigants are lax because the judges are lax and the procedure is lax. Vakils and advocates in the lower courts suffer under this disability that the litigants are not as prompt and as clever as litigants in the City. I want to remove one misconception from the mind of the Hon. the Minister for Finance. I have as high an opinion of the subordinate judiciary as he has and I pay my tribute for the work it is doing. If at all there is no complaint against any Department of the Government, it is only against the Judicial Department. That is a matter for the Government to be proud of."

" Coming to the amendment proper, it may be asked why it should be raised to 25,000 and not to 50,000 rupees. I say it should be gradual. Then only it will be better. First let us have 25,000 rupees and then 50,000 rupees ultimately. To cite the analogy of Bombay and Calcutta here will not avail. Do the

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Government know the expenditure the litigants in Bombay are put to? The appellate side practice in Bombay is nothing compared to the practice on the Original Side. The parallel of the High Court in Bombay or Calcutta will not help us so far as the Madras High Court is concerned. Therefore, let us not merely be sentimental. Let us have an efficient and swift administration of justice. Let things remain where they are, if my amendment cannot be accepted. After all, if the mufassal machinery is not working properly, let it be toned up. Let not the machinery here be brought down to the level of the mufassal machinery."

* DR. V. K. JOHN :—" Sir, I second this amendment. I should point out that, while the hon. the Mover of this Bill is not satisfied with our arguments, I am also not satisfied with his arguments. I quite agree that mufassal towns have become cities and there is plenty of commerce there now. That is one reason for the transfer of cases to the High Court from the mufassal and have Criminal judges. But I could never agree that a High Court judge is not superior to a District judge and that a District judge is not superior to a subordinate judge. The trial by a High Court judge is certainly much more satisfactorily conducted than one by either the District judge or the subordinate judge. So also, an appeal to the Supreme Court is heard much better and more satisfactorily than an appeal heard by the High Court. Eminent lawyers and eminent judges appointed to the Supreme Court and the High Courts certainly do better than those who are members of the subordinate judiciary. I plead that the cases should be tried by a judge who can give the greatest satisfaction to the litigant. There is no reason why this provision should be there even from the point of view of expenditure and delay. I oppose the existing provision and support the amendment which seeks to reduce the jurisdiction from Rs. 50,000 to Rs. 25,000."

THE HON. SRI C. SUBRAMANIAM :—" Sir, I am sorry, I am unable to accept this amendment, which seeks to reduce the jurisdiction of the court from 50,000 to 25,000 rupees. I do agree that it will be desirable to have High Court judges everywhere instead of District munsifs, subordinate judges and District Judges. But High Court judges have to be paid more than Rs. 3,000. We have to cut our coat according to the cloth. Perhaps, if everybody is as rich as Dr. John, then we can consider it. We have to take into account the entire State. There is no question of any vested interests involved here to require that only High Court judges can try such cases. If the mufassal judiciary is to be toned up, it does not mean that we should have a different system for the mufassal and that persons living in the City, particularly, litigants living in the City should have a more efficient system of judiciary. Therefore, it is impossible that all cases should be tried by High Court judges who have to be paid more than Rs. 3,000 as salary each. I am sorry that as a person representing the State as a whole, I am unable to agree to the present amendment."

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MR. CHAIRMAN :—“ The question is—

‘ For the words “ fifty thousand rupees ”, substitute the words “ Twenty-five thousand rupees ”.’ ”

The amendment was lost.

MR. CHAIRMAN :—“ The question is—

‘ For the words “ fifty thousand rupees ”, substitute the words “ twenty thousand rupees ”.’ ”

The amendment was lost.

Clause 2 was put and carried.

Clauses 3, 4 and 5 were put and carried.

Clause 6.

* SRI K. BHASHYAM :—“ In view of the explanation given by the Hon. Minister, I am not moving my amendment, Sir.”

Clause 6 was put and carried.

Clause 7 was put and carried.

Clause 8.

MR. CHAIRMAN :—“ Mr. K. Balasubramania Ayyar’s amendment is a negative amendment which is out of order. He cannot move it. Mr. Bhashyam can move his amendment.”

* SRI K. BHASHYAM :—“ Sir, I move the amendment standing in my name, viz.,—

‘ In sub-clause (1), add the following at the end :—

“ except such suits in which issues have been framed ”.

In the alternative

In sub-clause (1), add the following words at the end :—

“ except suits which are part heard.” ’

I am not moving the third part of my amendment, viz., ‘ omit sub-clause (2) of clause 8 ’.

“ Sir, this clause 8 is the most difficult clause. I want Government to take a liberal view in this matter. I am making an appeal to them to take a liberal view. This measure is not an urgent measure. It isn’t as if any amendments could not be passed in this House and placed before the Assembly for its concurrence. We have plenty of time. This will come into force only when a notification is made by Government. Therefore, the amendment, which says that automatic transfer of *all* pending suits to the City Civil Court may be stopped, is a reasonable one which could be

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accepted. My amendment says that all suits except those in which issues have been framed and suits which are part-heard, may be transferred. Automatic transfer of all pending suits to the City Civil Court will work great hardship on the litigants. There are number of cases wherein persons have been briefed. Fees have been paid. In some cases, issues have been framed. Documents have been filed. In some cases, judgment has been reserved. In some cases, execution is pending. Some are pending before the Master. That is why I say if at one stroke you say that there should be automatic transfer of all these cases to the City Civil Court, it will cause great hardship to the litigants, to the lawyers, etc. That is why I say retrospective effect should not be given. Two things may at least be considered. The Chief Justice may be given discretion that in cases wherein it is to the convenience of the parties concerned in the case, those cases may be transferred to the City Civil Court. That was what was done when the partition took place and it has worked well. Secondly, let them leave the present cases, where they are. Again so far as appeals are concerned, wherein the value is more than Rs. 5,000 of course they would be heard by the High Court. But what about those cases whose pecuniary jurisdiction is less than Rs. 5,000? Are they to be decided by the Principal Judge of the City Civil Court? Persons have filed their cases of appeal in the High Court? Persons have filed their cases of appeal in the High Court, thinking that the lower Court's decision may be rectified. If we say that there would be automatic transfer of all those cases filed in the High Court, then it would cause great inconvenience to the parties concerned. I appeal to the Hon. Law Minister to take all these facts into consideration and take a liberal view in this matter and accept my amendment."

The amendment was duly seconded.

SRI K. BALASUBRAMANYA AYYAR:—"Mr. Chairman, Sir, we say a suit is pending till the judgment is delivered. Until the judgment is delivered, the suit is said to be pending. The automatic transfer of these cases to the City Civil Court will cause great hardship to the litigants and to the lawyer profession. Day by day cases are coming. When the first hearing is made, the case (original side) is continued every day. The Judge forms an impression on the evidences let in that case. That impression which the Judge has formed, is something which is of great fundamental value to the appellant. If we say that those cases would stand automatically transferred, then that impression which the Judge who is hearing the case has formed and which is of great value to the appellant, is lost to the appellant. Therefore this automatic transfer will create great inconvenience to the litigants. Therefore, it is better not to interfere with pending suits. Let them say all further suits which are instituted and whose pecuniary jurisdiction falls below Rs. 50,000 may be heard by the City Civil Court. Let not the present pending suits be interfered with. Not only will it cause inconvenience to the litigants, but will create difficulties for the lawyers also. Some lawyer would have been engaged for a case. Fees would have been paid to him. If the case is transferred, he

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may not be able to argue his case in the Court to which it has been transferred. The litigant has to engage somebody else to argue the case. That means he has to pay additional fees to the lawyer. All these difficulties are there. The lawyer profession has also got to be consulted, in this matter. The Hon. Law Minister has said that the Judges are satisfied with the present measure. I say it is not enough if the Judges alone are satisfied: The convenience of the clients and the advocates have got to be looked into. We have placed before the Hon. Minister the difficulties of the clients and the advocates. I do hope that himself being a lawyer, the Hon. Minister for Law would take a sympathetic view so far as this matter is concerned. I do hope that he would see to it that only further suits whose pecuniary jurisdiction falls below Rs. 50,000 would be tried in the City Civil Court and that for all pending cases, the Chief Justice may be given the discretion that cases which have been partly heard by a Judge of the High Court, may be disposed of in the High Court itself. Let him take into account the convenience of the litigants and see to it that only those cases, wherein no difficulty would be caused to the litigants by the transfer, are transferred to the City Civil Court."

* DR. V. K. JOHN :—" I as a lawyer and all other lawyers welcome the statement of the Hon. Mover of this Bill, that Government are trying to have all the Courts situated in the High Court Compound itself. That will be necessary and essential when this Bill is passed. My two lawyer friends, viz., Mr. Bhashyam and Mr. Balasubramanya Ayyar have pointed out that there might be cases pending in the High Court wherein High Court lawyers would have been engaged. If those cases are automatically transferred, then it may not always be possible for that same lawyer to argue the case in the Court to which the case has been transferred. Then the client has got to engage some other lawyer to argue the case in the Court to which the case has been transferred. That means additional expense to him. If all the Courts are to be located in the High Court compound, such a difficulty may not arise. I want to make an appeal to the Hon. Law Minister and I hope my appeal would not be made in vain. It is better to omit this clause 8. It would be better to instruct the High Court to transfer such of those cases, which in the opinion of the High Court are fit enough to be transferred to the City Civil Court. Even as it is under section 24 of the Civil Procedure Code, which I read out earlier, the High Court can *suo motu* transfer suits, appeals and other proceedings to any Court of competent jurisdiction. Even now such a provision is there in the Civil Procedure Code. Clause 8 says that all cases pending in the High Court and whose pecuniary jurisdiction falls below Rs. 50,000 would be transferred to the City Civil Court. When a provision is already there in the Civil Procedure Code, I do not think clause 8 is necessary. I know that no amendments to this clause have been accepted in the Assembly and I do know that the present amendment to clause 8 will not be accepted. Therefore after hearing us, Government could bring an Amending Bill to delete clause 8. There was no such clause 8 at all, when

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the pecuniary jurisdiction of the City Civil Court was raised from Rs. 2,500 to Rs. 10,000. In actual practice, there will be lot of difficulties if this clause is allowed to stand as it is. If the Government had put 'notified' it would have been all right. This has not been done. So, I request that the Government may follow the same procedure as adopted in the case of the Andhra State Act. In view of the difficulties that are likely to be experienced, I make an earnest appeal even at this stage that clause 8 may be deleted or may be so modified as to see that no injustice is done to anybody."

5-20
p.m.

THE HON. SRI C. SUBRAMANIAM :—" Sir, I do appreciate certain difficulties pointed out by hon. Members Sri Bhashyam, Sri Balasubramanya Ayyar and Dr. John. They have said that, if certain cases are transferred to the City Civil Court, that would cause difficulties to the litigants and to the lawyers. But, I suppose what they want is that these difficulties should not be created. If their object could be achieved by some other means, I do not see why they should oppose this clause. Clause 8, no doubt, transfers by its very provision contained in it all suits to the City Civil Court. But, as it was pointed out by Dr. John, as the High Court can transfer any suit to any other Court of competent jurisdiction, it can also withdraw any suit to its own file. We shall see that the High Court exercises its powers to withdraw certain cases so that there may not be difficulties for the lawyers or for the litigants as such by such transfers; and such cases are tried by the High Court itself. So, there will not be any difficulty with regard to it. Certainly, we shall address the High Court with regard to this matter. I hope that all those difficulties will be removed. Subject to this assurance, I hope the hon. Members will be satisfied and clause 8 will be passed."

* SRI K. BHASHYAM :—" Mr. Chairman, I only want to say this. The procedure suggested by us in respect of transfer of cases by the High Court is one thing. The Hon. Minister's suggestion with regard to the withdrawal of certain cases by the High Court to its own file is entirely a different matter. The High Court exercises its power of withdrawal only very rarely in cases of extraordinary original civil jurisdiction. This is really done only for very strong reasons. A petition and an affidavit have got to be filed before a Judge and on these only the High Court considers the question of withdrawal of any case. That is why we say that we may follow the same procedure as adopted in the case of the Andhra State Act according to which the Chief Justice was bound to go into each case, give notice to the party concerned and then pass an order. That has worked very well, both in regard to lawyers, clients and others. As all cases were not automatically transferred and as the Chief Justice went into each case, there was not much difficulty. It is only with a view to removing certain difficulties of the persons concerned, I have moved my two amendments, viz., the first amendment for the addition of the words 'except such suits in which issues have been framed' and the second amendment, which I have

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given as an alternative, for the addition of the words 'except suits which are part-heard'. I request that these two amendments may be taken up separately."

THE HON. SRI C. SUBRAMANIAM :—"Sir, I know hon. Member Sri Bhashyam is a very obstinate fighter in any cause which he takes up. I suppose he will look at the result rather than the procedure adopted since I have given an assurance that all those difficulties pointed out by him and other hon. Members will be taken into account. If all those difficulties are real, the High Court will certainly exercise its power of extraordinary jurisdiction for the purpose of withdrawing the cases. The Government also will facilitate the retention of those cases on the file of the High Court itself. So, considering all these, I request the hon. Member even at this stage not to press his amendments."

SRI K. BHASHYAM :—"Sir, let the House give its verdict on the amendments moved by me."

MR. CHAIRMAN :—"The question is—

'In sub-clause (1) add the following at the end :—

"except such suits in which issues have been framed." "

The amendment was lost.

MR. CHAIRMAN :—"The question is—

'In sub-clause (1) add the following words at the end :—

"except suits which are part-heard." "

The amendment was lost.

Clause 8 was put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI C. SUBRAMANIAM :—"Sir, I move—

'That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be passed.' "

MR. CHAIRMAN :—"The question is—

'That the Madras City Civil Court (Amendment) Bill, 1955 (L.A. Bill No. 7 of 1955), as passed by the Assembly, be passed.' "

The motion was carried and the Bill was passed.

MR. CHAIRMAN :—"Hon. Sri C. Subramaniam may move his next Bill."

SRI MOHAMED RAZA KHAN :—"Sir, we may adjourn now and take up the other Bills to-morrow."

THE HON. SRI C. SUBRAMANIAM :—"Sir, anyhow the business before the House has to be finished by to-morrow. Subject to that I agree that we may rise now."

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MR. CHAIRMAN :—" Provided the hon. Members promise not to make long speeches to-morrow, we may adjourn now."

SRI MOHAMED RAZA KHAN :—" We will co-operate, Sir."

MR. CHAIRMAN :—" Yes, the hon. Members will have to co-operate. The House will now adjourn and meet again to-morrow at 10 a.m."

The House then adjourned.

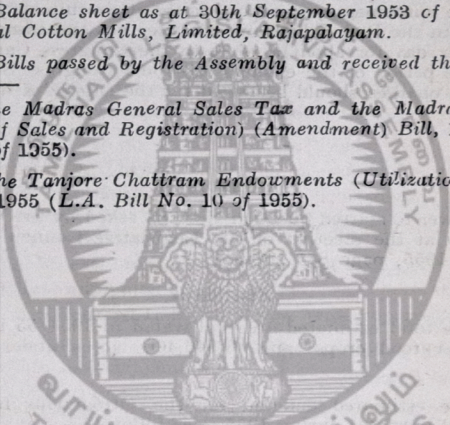
VI.—PAPERS LAID ON THE TABLE OF THE HOUSE.

a. 1. *Balance sheet as at 30th September 1953 of the Ramaraju Surgical Cotton Mills, Limited, Rajapalayam.*

b. 2. *Bills passed by the Assembly and received therefrom in the Council—*

(i) *The Madras General Sales Tax and the Madras Tobacco (Taxation of Sales and Registration) (Amendment) Bill, 1955 (L.A. Bill No. 9 of 1955).*

(ii) *The Tanjore Chattram Endowments (Utilization) Amendment Bill, 1955 (L.A. Bill No. 10 of 1955).*



வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

a Laid on the table on the 5th April 1955.

b Circulated by post on 2nd April 1955.